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United States Department of Agriculture

BUREAU OF DAIRYING

SERVICE AND REGULATORY ANNOUNCEMENTS, NO. 1

Regulations governing the manufacture, inspection, and marking of process or renovated butter, issued by the Commissioner of Internal Revenue and approved jointly by the Secretary of the Treasury and the Secretary of Agriculture, June, 1923

EXPLANATORY.—The section or sections of the Act of August 2, 1886, as amended by the Act of May 9, 1902, relating to the manufacture and sale of oleomargarine, adulterated butter, and process or renovated butter, and such section or sections of the Revised Statutes and subsequent Acts of Congress as are applicable, have been printed in small type in these regulations immediately preceding the section to which they most directly relate. Sections numbered below 114 may be found in United States Internal Revenue Regulations, No. 9, Relating to Taxes on Oleomargarine, Adulterated Butter, and Process or Renovated Butter.

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SEC. 4 [Act May 9, 1902]. * * * Every person who engages in the production of process or renovated butter * * * as a business shall be considered to be a manufacturer thereof.

SEC. 114. Definition of manufacturer of process or renovated butter.—A manufacturer of process or renovated butter is one who engages in the production of process or renovated butter as a business. (See sec. 118 for definition of process or renovated butter.)

SEC. 115. Registry and payment of special tax.—Every manufacturer of process or renovated butter must make return on Form 11, pay special tax, and otherwise comply with the provisions relative thereto in sections 12 to 28, inclusive. A person other than a manufacturer who sells renovated butter is not subject to special tax.

SEC. 4 [Act May 9, 1902]. * * * That every manufacturer of process or renovated butter * * * shall file with the collector of internal revenue of the district in which his manufactory is located such notices, inventories,

and bonds, shall keep such books and render such returns of material and products, shall put up such signs and affix such number of his factory, and conduct his business under such surveillance of officers and agents as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation require. But the bond required of such manufacturer shall be with sureties satisfactory to the collector of internal revenue, and in a penal sum of not less than five hundred dollars; and the sum of said bond may be increased from time to time and additional sureties required at the discretion of the collector or under instructions of the Commissioner of Internal Revenue. * * *

SEC. 116. Manufacturers' bonds, notices, inventories, etc.—The provisions of these regulations in respect to oleomargarine manufacturers' bonds (sec. 31), notices (sec. 32), factory numbers (sec. 33), signs (sec. 34), inventories (sec. 35), Government records (sec. 36), monthly returns (sec. 37), and premises (sec. 55), so far as applicable, are hereby extended and made to apply in the case of manufacturers of process or renovated butter. The penal sum of bond of a manufacturer of process or renovated butter shall be not less than \$500.

SEC. 117. Butter defined.—Butter is hereby defined to mean an article of food as defined in an act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine, approved August 2, 1886. (Sec. 4, Act May 9, 1902.) (See sec. 38 for definition of butter in Act August 2, 1886.)

SEC. 118. Process butter or renovated butter defined.—Process butter or renovated butter is hereby defined to mean butter which has been subjected to any process by which it is melted, clarified, or refined and made to resemble genuine butter, always excepting "adulterated butter" as defined by this Act. (Sec. 4, Act May 9, 1902.)

A manufacturer of process or renovated butter may call the product either "process butter" or "renovated butter." Therefore these words are used synonymously in these regulations.

When process or renovated butter also falls within the classification of adulterated butter as defined in section 101, it is subject to tax as adulterated butter.

Ladled butter is taxable as renovated butter, if in addition to being reworked, it is melted, clarified, or refined. But see section 101 (c).

SEC. 4 [Act May 9, 1902]. * * * That upon process or renovated butter, when manufactured or sold or removed for consumption or use, there shall be assessed and collected a tax of one-fourth of one cent per pound to be paid by the manufacturer thereof, and any fractional part of a pound shall be taxed as a pound. * * *

SEC. 119. Rate of stamp tax on process or renovated butter.—The tax upon process or renovated butter is one-fourth of 1 cent per pound. Any fractional part of a pound is taxable as a pound. The tax on process or renovated butter accrues upon removal from the place of manufacture, or upon sale prior to such removal, and is to be paid by the manufacturer thereof, by the affixing of stamps before removal. No provision is made in the law for removal of process or renovated butter from the place of manufacture, without the payment of tax, for export.

SEC. 4 [Act May 9, 1902]. * * * The tax to be levied by this section shall be represented by coupon stamps, and the provisions of existing laws governing engraving, issuing, sale, accountability, effacement, and destruction of stamps relating to tobacco and snuff, as far as applicable, are hereby made to apply to the stamps provided by this section. * * *

SEC. 120. **Stamps—Denomination, ordering, affixing, canceling, and destruction.**—(a) Stamps have been prepared under the above section of law for the payment of the tax upon process or renovated butter, and have been furnished to collectors, requiring them, for sale to manufacturers in their respective districts, as follows:

(1) Stamps designated "Process Butter," either in sheets or in books, in denominations of 10, 20, 30, 40, 50, 60, and 100 pounds. The book stamps have as many up to nine 1-pound coupons attached as may be desired and ordered by the manufacturers. One-pound coupon stamps for process butter in sheet form, 200 to the sheet, are furnished for use in connection with the sheet stamps.

(2) Stamps designated "Renovated Butter" in books in denominations of 10, 20, 30, 40, 50, 60, and 100 pounds to which stamps are attached 9 coupons each representing 1 pound.

(b) The provisions of section 46 in respect to the use of order form for stamps, of section 47 in respect to the mode of affixing stamps, and of section 48 in respect to cancellation of oleomargarine stamps, so far as applicable, are hereby extended and made to apply in the case of process or renovated butter stamps.

(c) When any tax-paid package of process or renovated butter is emptied the person in whose hands the same may be must destroy the stamp or stamps to prevent reuse. Any person in whose possession empty renovated butter packages with stamps intact are found will be liable to a heavy penalty.

SEC. 121. **Packages.**—(a) Process or renovated butter shall be packed by the manufacturer thereof in firkins, tubs, or other wooden, paper, or fiber packages not before used for that purpose. These packages shall be known as manufacturer's packages, shall be of substantial construction and with the exception of packages for export shall not be incased in jute, burlap, heavy paper, or other wrapping material.

(b) A manufacturer's package of process or renovated butter must have the proper stamp or stamps affixed and canceled (sec. 120), have the caution notice label affixed (sec. 122), and be properly branded (sec. 123).

(c) Process or renovated butter may be packed solid in the manufacturer's package or it may be packed therein in bricks, prints, or rolls, and such bricks, prints, or rolls may be incased in paper cartons or wrappers or containers of tin or other similar material, hermetically or otherwise sealed, provided the prints, bricks, or rolls and the cartons, wrappers, or containers are branded as provided in section 123.

SEC. 122. **Caution notice label.**—Every package of process or renovated butter must, before removal from the bonded premises where made, have printed thereon or securely affixed thereto by pasting, on the side opposite or on a different side (not the top or bottom) from that to which the tax stamp is attached, and in such a way as to be exposed to public view and to be easily read, a label on which

is printed the number of the manufactory and the district and State in which it is situated, together with a notice in the following form:

Factory No. ———, ——— District, State of ———

NOTICE.—The manufacturer of the renovated butter herein contained has complied with all the requirements of the law and the regulations authorized thereby. Every person is cautioned not to use again either this package for renovated butter or tax stamp thereon, or to remove the contents of this package without destroying said stamp, under penalty provided by law in such cases.

The wording of such caution notice must be in plain, open, and legible letters, in black ink, and shall occupy a space not less than 5 inches long and not less than 3 inches in width, and when in label form it shall be printed on plain white paper.

SEC. 5 [Act May 9, 1902.] * * * All process or renovated butter and the packages containing the same shall be marked with the words "Renovated Butter" or "Process Butter" and by such other marks, labels, or brands and in such manner as may be prescribed by the Secretary of Agriculture, and no process or renovated butter shall be shipped or transported from its place of manufacture into any other State or Territory or the District of Columbia, or to any foreign country, until it has been marked as provided in this section. The Secretary of Agriculture shall make all needful regulations for carrying this section into effect. * * *

SEC. 123. Branding.—(a) Every package of process or renovated butter must, before removal from the manufactory, have legibly printed or stenciled on the side thereof the words "Process Butter" or "Renovated Butter," also the factory number, district, and State, and net weight; for example:

Process Butter,
Factory No. 2, 2d District of New York.
Net weight 60 lbs.

The letters in the words "Process Butter" or "Renovated Butter" must be in bold-face gothic type, not less than three-quarters of an inch square. The letters of the other words and the figures in the brand shall be not less than one-half inch square.

(b) The upper surface of the renovated butter in each manufacturer's solid-packed package must have branded into it the words "Renovated Butter," in one or two lines, the letters to be gothic style, not less than one-half inch square, and depressed not less than one-eighth of an inch. When the contents of an original package of renovated butter are subdivided into bricks, prints, or rolls, as provided in section 121 (c), each brick, print, or roll must be similarly branded, the letters to be not less than three-eighths inch square, and when such subdivisions are incased in cartons, wrappers, or containers, each such carton, wrapper, or container must also have the words "Renovated Butter," in one or two lines, marked, branded, stenciled, or printed thereon in black or nearly black upon white or light ground, in full-faced gothic letters, not less than three-eighths inch square, so placed as to be the only marking upon one side or surface of the parcel so packed. Such package shall also bear a conspicuous statement of the quantity of the contents.

(c) Every manufacturer of renovated butter who fails to brand his product and the packages, cartons, containers, etc., in which the same is packed as in this section required shall be deemed guilty of a

misdemeanor, and on conviction thereof shall be punished by a fine of not less than \$50 nor more than \$500 or by imprisonment of not less than one month nor more than six months, or by both said punishments, in the discretion of the court. (Sec. 5, Act May 9, 1902.) Every person who removes any such brands from any package of renovated butter shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding \$1,000 or imprisonment not exceeding one year, or by both punishments, in the discretion of the court, as provided in section 4 of the Act of March 3, 1891, made applicable by section 5 of the Act of May 9, 1902. (T. D. 980.)

(d) Any marks, brands, or labels other than those mentioned in these regulations, with the exception of the shipping marks used in commerce, must be approved by the Secretary of Agriculture before such marks, brands, or labels may be used by the manufacturers.

(e) Copies of all approved marks, brands, or labels must be kept on file and accessible to the officer or agent of the Department of Agriculture, at the office or place of business of the manufacturer.

SEC. 124. **Misbranding under Food and Drugs Act.**—The Food and Drugs Act, approved June 30, 1906, and amendments thereto, prohibit the misbranding of all articles of food entering in interstate commerce, or manufactured or offered for sale in any territory or the District of Columbia. The pertinent paragraphs of the Act follow:

SEC. 8. That the term "misbranded," as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein, which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the State, Territory, or country in which it is manufactured or produced.

That for the purposes of this Act an article shall also be deemed to be misbranded:

In the case of food—

First. If it be an imitation of or offered for sale under the distinctive name of another article.

Second. If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package.

Third. If, in package form, the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count.

Fourth. If the package containing it or its label shall bear any statement, design, or device regarding the ingredients or the substances contained therein, which statement, design, or device shall be false or misleading in any particular.

SEC. 5 [Act May 9, 1902]. All parts of an Act providing for an inspection of meats for exportation, approved August thirtieth, eighteen hundred and ninety, and of an Act to provide for the inspection of live cattle, hogs, and the carcasses and products thereof which are the subjects of interstate commerce, approved March third, eighteen hundred and ninety-one, and of amendment thereto approved March second, eighteen hundred and ninety-five, which are applicable to the subjects and purposes described in this section shall apply to process or renovated butter. And the Secretary of Agriculture is hereby authorized and required to cause a rigid sanitary inspection to be

made, at such times as he may deem proper or necessary, of all factories and storehouses where process or renovated butter is manufactured, packed, or prepared for market, and of the products thereof and materials going into the manufacture of the same. * * * and shall cause to be ascertained and reported from time to time the quantity and quality of process or renovated butter manufactured, and the character and the condition of the material from which it is made. And he shall also have power to ascertain whether or not materials used in the manufacture of said process or renovated butter are deleterious to health or unwholesome in the finished product, and in case such deleterious or unwholesome materials are found to be used in product intended for exportation or shipment into other States or in course of exportation or shipment he shall have power to confiscate the same. * * *

SEC. 125. Inspection by officers of Department of Agriculture.—(a) Officers or agents of the Department of Agriculture are required to make a rigid sanitary inspection of each factory and storehouse where renovated butter is manufactured, packed, or prepared for market. The time of such inspection shall be at the discretion of the Secretary of Agriculture. Full report covering the sanitary conditions shall be made to the Secretary of Agriculture.

(b) Inspection will also be made of the materials going into the manufacture of renovated butter and the product thereof, and the inspector shall report the quantity and quality of renovated butter manufactured and the character and the condition of the materials from which it is made. If materials used in the manufacture of renovated butter are deleterious to health or unwholesome in the finished product, they shall be confiscated.

(c) If renovated butter consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance it shall be deemed adulterated under the Food and Drugs Act, approved June 30, 1906.

[Act April 23, 1904.] That the Secretary of Agriculture may construe the provisions of the Act of March 3, 1891, as amended March 2, 1895, for the inspection of live cattle and products thereof, to include dairy products intended for exportation to any foreign country and may apply, under rules and regulations to be prescribed by him, the provisions of said Act for inspection and certification appropriate for ascertaining the purity and quality of such products, and may cause the same to be so marked, stamped, or labeled as to secure their identity and make known in markets of foreign countries to which they may be sent from the United States their purity, quality, and grade; and all the provisions of said Act relating to live cattle and products thereof for export shall apply to dairy products so inspected and certified.

SEC. 126. Renovated butter for export.—(a) Renovated butter for export must be stamped, marked, and branded the same as for the domestic market. All renovated butter offered for export must be inspected by duly authorized officers or agents of the Department of Agriculture. After such officer has determined its purity, quality, and grade, he shall, if said renovated butter be found pure and properly branded and marked, issued a certificate setting forth these facts.

(b) Original tax-paid packages of renovated butter for export may be covered with cloth, jute, or burlap, provided that there be stenciled on the coverings of the package in black letters on a white background the words "Renovated Butter" in one or two lines, in full gothic letters not less than 1 inch square. The words "For export only" must appear in one line 1 inch below the words "Renovated Butter" in full gothic letters not less than three-eighths of an inch square. These markings are to be the only markings on one side or surface of the package. Where possible inspection will be

made before the outer coverings are put on the packages. If, however, inspection be necessary after the outer coverings have been placed on the packages, the exporter, or his agent, will be required to remove the outer covering from any or all packages designated by the inspector. (T. D. 1417.)

SEC. 127. Reporting violations.—Officers of the Department of Agriculture finding renovated butter on the market not bearing evidence that the tax thereon has been paid or without the caution notice required, or butter suspected of being renovated or adulterated, will report the facts in the case to the nearest internal revenue officer and, if necessary, secure samples of the suspected product for transmission to the laboratory of the Internal Revenue Bureau for chemical analysis. Likewise, revenue officers finding renovated butter on the market which does not comply with these regulations should promptly notify the Department of Agriculture, or its nearest representative, of the location of such butter and the facts relating thereto.

SEC. 128. Administrative jurisdiction.—The administration of sections 114 to 122 of these regulations relative to renovated butter is assigned to the Commissioner of Internal Revenue, Treasury Department, and of sections 123 to 126 is assigned to the Chief of the Bureau of Animal Industry,¹ Department of Agriculture. All correspondence should be addressed accordingly.

SEC. 129. Promulgation of regulations.—In pursuance of law the foregoing regulations are hereby made and promulgated and all rulings inconsistent herewith are hereby revoked.

D. H. BLAIR,
Commissioner of Internal Revenue.

Approved: June 22, 1923.

A. W. MELLON,
Secretary of the Treasury.

Approved: June 28, 1923.

C. W. PUGSLEY,
Acting Secretary of Agriculture.

¹After July 1, 1924, to the Chief of the Bureau of Dairying.

